## REMARKS

Claims 1-25 are pending in the present application. Claims 1 and 17 have been amended by adding "by utilizing a computer" to render the 35 U.S.C. §101 rejection moot. Support for this language is found throughout the present specification and drawings, for example on page 6 of the specification. These changes were likely anticipated by the Examiner, such that consideration of the amended claims will not require further search and/or new consideration by the Examiner. Additionally, claims 1, 10 and 17 have been amended for editorial purposes. Thus, no new matter has been added and entry of the amendments is respectfully requested.

Comments on the Examiner's Response to Previous Arguments

Regarding the issue of 35 U.S.C. §101, at paragraph 2 of the Office Action, the Examiner pointed out that "In this case, simply updating an electronic schedule is an insignificant extra solution activity since the rest of the claimed method is done without the interaction of a specific machine."

Applicant has amended claims 1 and 17 by adding "by utilizing a [or "the"] computer" in a number of limitations such that in the present claims, the inventive methods require interaction with a machine, i.e., utilizing a computer. As such, it is respectfully submitted that the rejection under 35 U.S.C. § 101 should be withdrawn.

At paragraph 3 of the Office Action, the Examiner asserted that "[I]n the cited passage of Stack, the data processor uses filter data (data that is input by a customer with potential interest, i.e., a non purchaser who is interested in a product) along with customer history to determine recommended goods or services."

However, it is Applicant's position that the statement, "the data processor uses filter data

(data that is input by a customer with potential interest, i.e., a non purchaser who is interested in a product) along with customer history to determine recommended goods or services," does not relate to the limitations, "statistically analyzing a collection of data representing historical interactions with a plurality of previous customers including at least one non-purchaser" and "wherein at least one of said at least one non-purchaser is other than said current customer and past customer."

With respect to the limitation of "non-purchaser," in the previous Response filed on November 20, 2008, Applicant asserted as follows:

> Applicant submits that this cited passage explains at best that Stack's system recommends goods or services to **a current customer** based on the customer's selection of particular goods and a previous customer's activity history relating to the particular goods and all of the previous customers who have purchased the goods. However, claim 1 requires "at least one non-purchaser" interacting with the cited system who is "**other than current customers** and past purchasers." (emphasis added)

As stated in the above cited paragraph, Applicant asserts that at best, Stack might disclose **a current customer** who may be referred as a non-purchaser (as the Examiner suggested in the Office Action), but it does not disclose **the non-purchaser who is other than a current customer and past purchaser**.

For example, claim 1 requires that a collection of data representing historical interactions with a plurality of previous customers and at least one non-purchaser (other than a current customer and past purchaser) be statistically analyzed.

Stack might disclose comparing collected data from a current customer and past customers, but it does not disclose analyzing the collection of data from the non-purchaser (who is not a current customer or past purchaser) and previous customers.

Claim 3 defines the plurality of previous customers as including at least one purchaser and at least one non-purchaser (who is not a current customer). In other words, the limitation of "non-purchaser" includes previous customers who have not purchased the product, i.e., excludes a current customer and previous customers who have purchased the product.

As such, Stack might disclose a current customer but it does not disclose a non-purchaser who is other than a current customer and past purchasers.

On page 3 of the Office Action, the Examiner further asserted that "[H]ere, in fact, both customer data and non-purchaser data is analyzed."

It is Applicant's position that Stack might compare the customer data collected from past purchasers and the current customer input data, but it does not analyze the collection of data representing historical interactions with the non-purchaser who is not a current customer as required by the claims as discussed above.

Thus, it is respectfully submitted that the rejection of the present claims should be withdrawn.

At paragraph 4 of the Office Action, the Examiner asserted as follows:

> Applicant's arguments filed with respect to whether Geerlings teaches "updating an electronic schedule" have been fully considered but they are not persuasive. In the cited portion of Geerlings, a campaign is created consisting of merchant-defined consecutive communications. The customer is identified, the contents of the communication (advertising), the date or timing of the communication (i.e., a schedule of communication), and the communication channel (email, mail, internet, etc.). In column 4, lines 45-57, Geerlings teaches the merchant's desired communications are stored in a strategy database; the strategy database storing the plans for desired communication. Therefore the schedule/timing of communication is stored electronically in the database. Previous rejections are upheld.

Applicant asserts that at best, Geerlings might teach the strategy database storing the plans for desired communication electronically as the Examiner asserted as above. However, claim 1 requires "**automatically updating** ... the electronic schedule with at least one task representing the at least one recommended action item" (emphasis added). Applicant asserts that Geerling does not disclose that the plans stored in the strategy database are automatically updated. In other words, Applicant asserts that **storing the plans** in the database of Geerlings does not teach the limitation of "automatically updating ... the electronic schedule."

Regarding claims 9 and 10, at paragraph 5 of the Office Action, the Examiner continued to take Official Notice by asserting that "Applicant has not provided adequate information or arguments so that on its face it creates a reasonable doubt regarding the circumstances justifying the Official Notice." Applicant asserts that because claim 1 is patentable, claims 9 and 10 are also patentable over the applied references. Additionally, Applicant asserts that the Examiner's taking of Official Notice is improper as further discussed below.

First, on page 3 of the Office Action, the Examiner provided two minimum requirements for challenging the taking of an Official Notice. Applicant respectfully requests that the Examiner should make reference to specific sections of the M.P.E.P. where these requirements are discussed with respect to U.S. patent prosecution practice. Furthermore, even if the M.P.E.P. discusses such requirements, Applicant asserts that they were met by Applicant's previous responses.

In the Office Action of July 30, 2008, the Examiner took Official Notice that "it would have been obvious ... to generate a trigger wherein if a communication is not sent as scheduled, i.e., network error, the communication is rescheduled to be sent." In response to that Office Action, on pages 15 and 16 of the Amendment filed on November 20, 2008, Applicant provided the arguments regarding claims 9 and 10. Particularly, Applicant asserted that "Geerling's trigger

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statement has something to do with categorizing customer groups, but it has nothing to do with the claimed limitation of 'automatically rescheduling the task' on page 16 of the Office Action." As such, Applicant reasonably traversed the taking of Official Notice with specific arguments such that Applicant's right to challenge the Official Notice was not waived.

Furthermore, Applicant asserts that the term "trigger," which is at issue with respect to the Examiner's Official Notice, does not relate to the limitations of automatically rescheduling the task or electronic schedule as argued in the previous Amendment. Again, the "trigger" disclosed in Geerlings, at best, might relate to categorizing customer groups by using conjunctions AND, OR and NOT, but it does not relate to the limitations of "automatically rescheduling the task" and "automatically re-assigning the task."

As such, even if, assuming, *arguendo*, that the Examiner's rejection based on the Official Notice that "it would have been obvious to one of ordinary skill in the art at the time of the invention to generate a trigger" was proper, this does not relate to the limitations recited in claims 9 and 10 as discussed above. Thus, claims 9 and 10 are patentably distinguishable over the applied prior art references.

Regarding claims 18 and 19, at paragraph 6 of the Office Action, the Examiner asserted that "Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references."

On page 17 of the previous Amendment, Applicant specifically traversed the rejection of claims 18 and 19 along with claim 17. Particularly, Applicant argued that "More specifically, the passages do not relate to the tasks as recited in dependent claims 18 and 19." Applicant further argued that "Applicant submits that independent claims 17 and 20 requiring 'at least one

non-purchaser' and 'performing task' and their dependent claims are not anticipated by Stack and all of these rejected claims should be allowed."

As such, Applicant asserts that Applicant specifically pointed out how claims 18 and 19 were patentably distinguishable from the references because claims 18 and 19 depend from claim 17.

For the forgoing reasons, reconsideration of the arguments provided in the previous Amendment and withdrawal of the rejection of the present claims are respectfully requested.

## Claim Rejections under 35 U.S.C. § 101

The Examiner rejected claims 1-19 and 24 under 35 U.S.C. § 101 based on a Supreme Court decision and recent Federal Circuit decisions.

As discussed above, Applicant amended claims 1 and 17 in compliance with the Office's guidance to examiners regarding a 35 U.S.C. §101 process by adding "by utilizing a computer" in each limitation, support for which is found throughout the present specification and drawings, for example "embodiments of the present invention may illustratively be applied in the context of a computer system" as disclosed on page 6 of the present specification. It is clear throughout the entire disclosure that the steps recited in the claimed methods utilize the computer.

Applicant asserts that the Examiner was aware of this based on his reading of the specification and as such, this amendment does not create a burden requiring further search and/or consideration by the Examiner. Entry of this amendment is respectfully requested. Furthermore, based on this amendment, withdrawal of this rejection is respectfully requested.

Claim Rejections under 35 U.S.C. § 103

The Examiner rejected claims 1-15, 21, 24 and 25 under 35 U.S.C. § 103(a) as being unpatentable over Stack (U.S. Patent No. 6,782,370, hereinafter as "Stack"), in view of Geerlings (U.S. Patent No. 5,956,693, hereinafter as "Geerlings"). Because this rejection is a restatement of the rejection made in the previous Office Action, Applicant traverses this rejection as discussed in the previous Amendment filed on November 20, 2008 and in the arguments above.

Additionally, Applicant further traverses this rejection as discussed below.

Regarding claim 1, Applicant asserts that claim 1 is patentable as discussed above.

Regarding claim 2, on page 7 of the Office Action, the Examiner stated "automatically updating the electronic schedule with more than one task, wherein the electronic schedule is updated with a task that corresponds to each of the recommended action items (column 5, lines 32-35 - the merchant schedules transmitting communications on recurring basis)."

Applicant asserts that the act of scheduling and "transmitting communications on recurring basis" (e.g., daily, weekly, etc.) is not the same as the act of "automatically updating the electronic schedule with more than one task, wherein the electronic schedule is updated with a task that corresponds to each of the recommended action items."

Regarding claim 3, the Examiner asserted that "Stack teaches statistically analyzing a collection of data representing historical interactions with a plurality of previous customers that include at least one purchaser and at least one-non purchaser (column 3, lines 50-65 - confidence matching factor is calculated to determine recommendations)."

Applicant asserts that Stack discloses "[t]he confidence [matching] factor is calculated based on the frequency of appearance of the recommended books (or other items) in the histories of the customers **who have purchased the selected book** (or other item)" (emphasis added, see

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column 3, line 52-56 of Stack). As such, Applicant asserts that Stack does not disclose **a plurality of previous customers** that include at least one purchaser and at least one non-purchaser as recited in claim 3.

Regarding claim 4, Applicant asserts that Stack does not disclose the plurality of previous customers as discussed relative to claim 3.

Regarding claims 9 and 10, Applicant asserts that Stack, Geerlings or any combination thereof does not teach the limitations, i.e., "automatically rescheduling the task" and "automatically re-assigning the task" as discussed above.

Regarding claim 12, the Examiner asserted that "Geerlings teaches determining the recommended action item includes selecting an appropriate task type selected from the group comprising at least one of sending flowers, send an email, contacting by telephone, sending a gift, sending a newsletter and sending a gift certificate (column 4, line 58 - column 5, line 5 -customer activity is analyzed and a plan is formulated by the merchant for desired customer communications, the plan including the desired communication (mail, email, internet, fax, etc.) and the date or timing of when the communication is to be sent, rules for sending offers are based on the product purchased, i.e., if a customer purchases a certain appliance and extended warranty offer is sent to the customer)."

Applicant asserts that "the desired communication (mail, email, internet, fax, etc.) does not relate to the task type. For example, contacting the client can be a task but the desired communication is not a task. Instead, it is a means for conducting the task.

Regarding claim 15, the Examiner asserted that "Geerlings teaches statistically analyzing a collection of data representing historical interactions between a plurality of sales entities and a plurality of previous customers (column 16, lines 13-34 – different branches, departments and/or

sites of the company utilize the system as though they are separate merchants)."

Applicant asserts that the "different branches, departments and/or sites of the company" do not meet the limitations of "a plurality of sales entities" because they are a part of the company, i.e., one single sales entity.

Regarding claim 21, the Examiner asserted that "Stack teaches data representing historical interactions with the plurality of previous customers including at least one non-purchaser are client ticket sessions (column 3, column 4, customer purchase data is collected and retrieved for purposes of recommending items)."

On page 45 of the present specification, a client ticket session is defined as a "software-facilitated series of steps that if completed will track and facilitate a sales process from the beginning (e.g., initial client contact) to the end (e.g., finalization of a deal)."

The Examiner broadly cited columns 2 and 3 of Stack to assert that the limitations recited in claim 21 are taught by Stack. However, Applicant asserts that Stack does not disclose a ticket session as defined in the present specification, which of course provides a definition of the terms used in the claims. As such, Stack does not teach the limitations, "wherein said data representing historical interactions with the plurality of previous customers including at least one non-purchaser are client ticket sessions."

Regarding claims 24 and 25, Applicant asserts that these claims are distinguishable from the references for similar reasons discussed above relative to claim 12.

Regarding the other dependent claims, Applicant submits that these claims are patentable because they depend from patentable independent claim 1.

For at least the reasons discussed above, Applicant respectfully submits that the rejection of claims 1-15, 21, 24 and 25 should be withdrawn.

On page 14 of the Office Action, the Examiner further rejected claim 16 under 35 U.S.C. § 103 (a) as being unpatentable over Stack and Geerlings, further in view of U.S. Patent No. 6,327,574 to Kramer et al. (hereinafter as "Kramer"). The Examiner asserted that "Kramer et al teaches removing confidential consumer information while still allowing targeted marketing to take place."

Applicant asserts that the Examiner failed to specify where in Kramer there is disclosure of "removing confidential consumer information while still allowing targeted marketing to take place." Applicant asserts that Kramer discloses that "[t]he consumer profiles are logically controlled by the consumer's computer, thus providing for enhanced security over information that is personal and confidential to the consumer" (see the Abstract). As such, Applicant asserts that Kramer provides a system in which confidential consumer information is protected, rather than removing the confidential consumer information.

Thus, Applicant asserts that Stack, Geerlings, Kramer, or any combination thereof does not teach the limitations, "statistically analyzing a collection of data that has been stripped of client confidential information and represents historical interactions between a plurality of sales entities and a plurality of previous customers."

For the reasons discussed above, it is respectfully submitted that the rejection of claim 16 should be withdrawn.

## Claim Rejections under 35 U.S.C. § 102

The Examiner rejected claims 17-20, 22 and 23 under 35 U.S.C. § 102 ((a) and (e)) as being anticipated by Stack. Applicant respectfully traverses this rejection as discussed below.

Regarding claim 17, Applicant asserts that Stack does not disclose at least one non-purchaser who is other than a current customer and past purchaser as discussed above. As such, Applicant asserts that Stack does not teach the limitations, "statistically analyzing a collection of data representing historical interactions with a plurality of previous customers including at least one non-purchaser" and "wherein at least one of said at least one non-purchaser is other than said current customer and past purchasers," as recited in claim 17.

Regarding claim 18, the Examiner asserted that "Stack teaches performing the task in response to a user directive (column 3, column 4 – recommendation in response to user actions)."

Applicant asserts that "recommendation in response to user action" does not meet the limitation of "performing the task in response to a user directive" as discussed below. Claim 18 requires that the task be performed by the seller in response to the user's directive. Stack does not disclose that the user directs a task performed by a seller, but it only discloses that the user can select a book. Applicant asserts that the selection of the book (user action) does not equate to the user's directive. In other words, Stack discloses a system responding to the user's selection of the book, but it does not disclose that the user directs a task which will be performed by the seller.

Regarding claims 19, Applicant asserts that this claim is patentable because it depends from patentably distinguishable claim 17 as discussed above.

Regarding independent claim 20, the Examiner asserted that "it is the system with means for performing the method of claim 17. Since Geerlings teaches a computer system wherein customer data is analyzed to develop a plan for targeted communication the same rejection as

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applied to claim 17 is applied to claim 20." Applicant asserts claim 20 is patentable for similar reasons discussed above relative to claim 17.

Regarding claims 22 and 23, Applicant asserts that these claims are patentable for similar reasons discussed above relative to claim 21.

For the reasons discussed above, it is respectfully submitted that the rejection of claims 17-20, 22 and 23 under 35 U.S.C. § 102 should be withdrawn.

Accordingly, reconsideration of the outstanding Office Action and allowance of the present application and all the claims therein are respectfully requested and now believed to be appropriate.

It is believed that all of the pending issues have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this reply should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this reply, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

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